



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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No. 480 Dispur, Thursday, 12th October, 2023, 20th Asvina, 1945 (S. E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

OFFICE OF THE REGISTRAR OF COOPERTIVE SOCIETIES ::: ASSAM

ORDER

The 22nd June, 2023

No. CMP.35/2020/244.- Perused the Complaint petition dated 30/09/2022 submitted by Sri Nitya Nanda Gogoi, a shareholder of Assam Jubak Adarsha Bahumukhi KPSS Ltd. (Regd. No G-2/83-84, dated: 6/07/83) requesting cancellation of registration of the society due to various irregularities in the society.

The synopsis of the case is that in 1970, DC Kamrup allotted 5000 bighas of land to 15 cooperative societies out of which 800 bighas of land were allotted to Assam Jubak Adarsha Bahumukhi K.P.S.S. Ltd. Though the land was allotted in 1970, the society was registered in 1983.

In 2003, one Sri Nitya Nanda Gogoi alleged that a lot of people are residing illegally in the Borbill area and occupying society land. The same was also reported by Sri A.K. Borah, A.R.C.S. H.O. in his enquiry report with relevant documents on 21/04/2014. As many people cultivate the land as share croppers (Adhiar), they come from different districts of Assam and have settled there. They are not permanent residents of that area. Based on this allegation, the Registrar of Co-operative Societies, Assam conducted a hearing and cancelled the registration of the above-mentioned society vide order no CO. 39/2003/382, dtd. 02/08/2014. In receipt of order of the Registrar of Co-operative Societies, Assam, the Deputy Registrar of Co-operative Societies, Kamrup by an order no. CGDG (A) 172/91/5, dtd. 09/09/2014 cancelled the registration of the society and appointed a liquidator under section 94 of the Assam Coop. Societies Act.2007.

However, the order of the RCS was challenged at the Hon'ble High Court in writ petition no WP© 4546/2014 wherein the Hon'ble Court directed for arrangements to be

made to manage the affairs of the society through a designated officer of the Cooperation Department. Accordingly, Sri Baladev Sharma, Sr. Inspector/Auditor was appointed to manage the affairs of the society vide order no. NWGP 1/2014/8 dated 15th Oct, 2014 by ZJRCS, Guwahati Zone with Sri Rahul Goswami Jr. Insp. and Sri Dipen Payeng, Jr. Insp. to assist him.

The Hon'ble Gauhati High Court vide order dated 16/06/2017 in the matter of WP@ 4546/2014 directed the Registrar of Cooperative Societies to dispose of the matter, after giving an opportunity of hearing to the parties therein, within a period of two months from the date of receipt of the review petition.

On 23rd May/2018, the Registrar of Co-operative Societies, Assam, by order Guwahati High Court conducted a second hearing and passed an order vide order no. CO 39/2003/630 dated 23rd May 2018 and directed the ARCS, Guwahati to take steps to restore the Board of Directors within the stipulated time through the officers deputed under sec 41(6) of the Assam Cooperative Societies Act 2007, ensure the preparation of correct voters list and scrupulously comply with the provisions of the act and byelaws incorporating all original shareholders, their nominees and new inductees. It was further stated in the order that if, in the process of compliance of the order, if the democratic functioning of the society by all the shareholders, original and new, cannot prevail, and it is proved again that the society cannot function as per the cooperative principles, then the RCS will be bound to revisit the case and exercise power conferred under Sec 8 of the act.

Accordingly, a draft voters list was prepared by then One-Man Management, Sri Baladev Sharma Sr. Insp./Auditor and was put up for claims and objections at the notice board of the society vide notice dated 01/08/2018. The time for claims and objections was allowed till 12/08/2018. The final voters list was approved by the One-Man Management on 22/08/2018 vide resolution no. 1 of the proceedings of the Board meeting dated 22/08/2018. However, Nitya Nanda Gogoi and 4 others vide a petition dated 20/08/2018 (all claiming to be original members or descendants of the original members of the society) stated that 'the process of restoring the democratic functioning of the society is not legally possible with the inclusion of person of doubtful nationality and for not vacating the illegally occupying land meant for agricultural purpose.'

Accordingly, A.R.C.S., Guwahati, vide letter No. CKGO. 251/83-531, dtd. 25/10/2018 to the Registrar of Co-operative Societies, Assam requested him to revisit the case and pass necessary order in exercise of power conferred by sec 8 of the act as mentioned in order no. CO 39/2003/630 dated 23rd May 2018.

But there was no follow up regarding the matter for two years. The Secretary at that time, Sri Nikhil Biswas again approached the Honorable High Court and filed a writ petition WP@ 4097/2020 for inaction of the authority and the Hon'ble Court ordered the RCS to take all necessary steps to hold the AGM of the society in question strictly in accordance with the provisions of the act within a period of 4 months.

Following the same order, the Addl. Registrar of Co-operative Societies, Assam, directed ARCS, Guwahati to comply with the direction of the Hon'ble Gauhati High Court vide letter No. CMP. 35/2020/48, dtd. 17th Feb./2021. Accordingly, the Joint Registrar Coop: Societies, Guwahati Zone appointed Sri Rahul Dev. Goswami as One-Man management vide order no. NCON 1/2015/10 dated 15/03/2021. Complying with the order, the one-man management took necessary steps to publish a correct voters list for the benefit of the shareholders.

However, it may be noted that the draft voter's list was based on the final voter's list prepared by the previous one-man management, Sri Baladev Sharma on 22/08/2018.

Then the voter's list was submitted to A.R.C.S., Guwahati for approval. On 04/05/2021, the AGM of Assam Jubak Adarsha Bahumukhi KPSS Ltd. was held at Bilpara Vidyalaya (Kalimandir) at 11.30 A.M. in the presence of 74 shareholders. The meeting was also approved by A.R.C.S, Guwahati on 10/06/2021.

It may also be mentioned here that a complaint petition was submitted by Sri Nitya Nanda Gogoi on 03/05/2021 and on 06/07/2021, another complaint petition was submitted by Sri Prafulla Biswas and 18 others stating that they were not informed of the AGM and the committee formed in the AGM was not valid.

The first hearing on the petition was held on 10/02/2023 which was attended by both the parties. After listening to the submissions, perusal of documents and looking at the criticality of the issue at hand, a legal opinion was sought from the Standing Counsel, Cooperation Department on the issue that the AGM of the society was held to comply with the direction of the Hon'ble Gauhati High Court, the main grievance of the petitioners has not been ventilated and therefore, whether the petition of the petitioners can be heard to resolve the grievances. Standing Counsel was of the opinion that in the case at hand, there was no bar for the Registrar to proceed under Section 8 of the Act, 2007 or any other appropriate provision therein as per the order dated 23/05/2018.

Accordingly, hearings were held on various dates. The petitioner submitted land documents, share certificates and proceedings of the society dated from the year 1984 and 1986.

After perusal of the documents, submitted to this office and listening to the deliberations of both the parties, it can be certain that there is no doubt that the land under question is registered under the name of Assam Jubak Adarsha cooperative farming Society Limited. The old proceedings of the society reveal that Shri Monu Gogoi, father of Nitya Nanda Gogoi, was the chairman in 1984 and 1986. Nitya Nanda Gogoi was also a member of the society at that time. Moreover, there were other members of the society in 1984 whose names or for that matter the names of their nominees didn't appear on the voter's list of the society on the basis of which the AGM of the society was held on 04/05/2021. Hence the voter's list is not devoid of anomalies.

On the basis of the order no. CO 39/2003/630 dated 23rd May 2018, there was an attempt to restore the democratic functioning of the society by incorporating all original

shareholders, their nominees and new inductees. However, it was proven that the democratic functioning of the society by inducting, all the shareholders, original, and New could not prevail which is revealed from the reports of ARCS, Guwahati dated 31/10/2018 and 14/02/2022. Therefore, the undersigned is inclined to pass an order under section 8 of the Assam cooperative societies act, 2007 as stated in the order dated 23 May 2018.

Section 2(k) of the Assam Cooperative Societies Act 2007 defines Cooperative as:

"Co-operative" where used as a noun means an autonomous association of persons united voluntarily to meet their common socio-economic need through a jointly owned and democratically controlled enterprise formed in co-operative principles and registered under this Act;

In the instant case, the members are no longer driven by the cooperative principles of *Democratic Member Control* and *Professional Management*. Hence, it is proven again that the society cannot continue to function as the members of the society are no longer driven by cooperative mindset.

Therefore, in exercise of power of Assam Cooperative Societies Act, 2007 under section 8, I, Sri Narayan Konwar, IAS, Registrar of Cooperative Societies, Assam there is of the opinion that the society cannot continue to function. Hence, under section 94 (2)(iv) of the act 2007, the registration of Assam Jubak Adarsha Bahumukhi KPSS Ltd is hereby cancel[led and the society is placed under liquidation. Sri Prasenjit Choudhury, Sr. Inspector/Auditor of Cooperative Societies will take charge of the society as liquidator. The petition is hereby disposed of.

NARAYAN KONWAR,
Registrar of Coopertive Societies, Assam,
Khanapara, Guwahati-22